

**TO:** Prospective Offerors

**FROM:** Tommye Dale Favre, Executive Director, Mississippi Department of Employment Security

**SUBJECT:** Request for Proposals for a Third-Party Employer for the Participants of the Southcentral Mississippi Works Workforce Investment Area's Work Experience Program

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## **1.0 SERVICES AND PRICES**

The Mississippi Department of Employment Security (MDES, "Agency" or "State") located in Jackson, MS, is seeking sealed proposals to establish a contract for a third-party employer for the participants of the Southcentral Mississippi Works Workforce Investment Area's (SMWWIA) Work Experience Program.

The contract to be awarded will be a fixed price agreement and will require services to be performed by one selected contractor. The contractor will designate one person who will be responsible for all activities required to fulfill the specifications of said contract. This individual shall be vested with the authority to make decisions and commitments on behalf of the contractor during performance of the contract. This agreement will be a requirements contract.

## **2.0 STATEMENT OF WORK**

The MDES is requesting sealed proposals to establish a contract for a third-party employer for the participants of the Southcentral Mississippi Works Workforce Investment Area's (SMWWIA) Work Experience Program. This area includes the following counties: Yazoo, Madison, Warren, Hinds, Rankin, Claiborne, Copiah, Simpson, Jefferson, Lincoln, Lawrence, Walthall, Pike, Franklin, Amite, Adams, and Wilkinson. The nine WIN Job Centers that serve these counties are located at: Yazoo City, Canton, Pearl, Jackson, Vicksburg, Hazlehurst, Natchez, Brookhaven, and McComb.

The purpose of the Southcentral Mississippi Works Workforce Investment Area's Work Experience Program is to give eligible young people aged 18 to 21 the chance to work and gain useful skills. The program is funded through the Workforce Investment Act under the direction of the Southcentral Mississippi Works Workforce Investment Area. The goals of the Work Experience Program are to:

1. Provide eligible youth with employability skills training, which include learning good work habits, skills, and attitudes sought by employers to enhance the participants' future employability.
2. Provide eligible youth with a job which will:

- a. Introduce them to the world of work;
  - b. Introduce them to sources of information on career opportunities;
  - c. Provide them with adequate supervision on the job; and
  - d. Provide them with income in return for their work.
3. Provide employers in local communities with needed services that can be performed by youth who participate in the Work Experience Program.

Contractor will serve as an intricate part of this program by acting as the participants' employer after MDES determines they meet program eligibility requirements.

### **3.0 DURATION**

The term of the contract shall be April 13, 2007 through April 12, 2011 with an option to renew for one (1) additional twelve (12) month period or as long as this program with the SMWWIA is continued, whichever is shorter. Any contract extension shall be under the same prices, terms, and conditions as in the original contract, and shall be agreed to, in writing, by the State and the Independent Contractor. The period of performance under the initial contract term and under any extension shall be conditioned upon the receipt of funds and satisfactory performance during prior years as determined by the MDES.

### **4.0 RELATIONSHIP OF PARTIES**

It is expressly understood and agreed that MDES enters into a contract with a Contractor based on the purchase of professional services and not based on an employer-employee relationship. For all purposes under this contract:

1. Contractor shall not be deemed in any way, directly or indirectly, expressly, or by implication, to be employees of MDES.
2. The Contractor shall pay, when due, all wages of the participants, and it accepts exclusive responsibility for the payment of Social Security and Medicare taxes.

### **5.0 CONTRACT ADMINISTRATION**

The contract awarded subsequent to this solicitation shall be administered by the MDES. All invoices submitted by the Contractor for payment of services performed pursuant to the contract shall be submitted as follows:

Chief Fiscal Officer  
Mississippi Department of Employment Security  
P.O. Box 1699  
Jackson, MS 39215-1699

Third Party Employer Youth Work Experience Services  
MDES  
RFP 07-06  
January 31, 2007

The MDES will provide timely payment for services in accordance with Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by the Agency within forty-five (45) days of receipt of invoice.

## **6.0 RESPONSIBILITIES AND DUTIES**

### **6.1 CONTRACTOR DUTIES**

The specific responsibilities of Contractor are as follows:

- 1) Evaluate potential employer worksites for eligibility and entering into the worksite agreement. The employer worksite supervisor will be responsible for assigning the daily job activities of the eligible youth.
- 2) Evaluate and match the eligible youth with the appropriate employer worksite. Contractor will explain to each participant the procedure for submitting timesheets to Contractor to ensure timely payment.
- 3) Pay the eligible youth at the current federal minimum wage rate which is currently \$5.15 per hour. Youth will not work less than twenty (20) hours per week and no more than forty (40) hours per week up to a program maximum of 350 hours per participant. Contractor will withhold the appropriate FICA and Medicare taxes from the participants' pay and issue a W-2 to program participants in accordance with applicable law.
- 4) Provide Worker's Compensation Insurance to all program participants. (See "Insurance" below.)
- 5) Provide weekly itemized invoices to MDES.

### **6.2 MDES DUTIES**

The specific responsibilities of MDES are as follows:

- 1) Recruit, certify and enroll eligible youth in the appropriate WIA youth activity in accordance with Southcentral Mississippi Works eligibility policy. MDES will retain total control over eligibility determination.
- 2) Promptly notify and provide Contractor with the proper documentation in order to add the eligible youth to its payroll.
- 3) Provide timely payment for services in accordance with Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by the Agency with forty-five (45) days of receipt of invoice.

## **7.0 COMPENSATION FOR SERVICES**

Compensation for services will be in the form of a fixed price agreement based on a percentage mark-up over the hourly rate. Services are to be provided on an as needed basis.

## **8.0 CONTRACTOR ELIGIBILITY REQUIREMENTS**

### **8.1 References:**

Each prospective Contractor must furnish, with its proposal, a listing of at least five (5) of its largest Mississippi clients over the past two (2) years. Client size is a measure of revenues paid by the client to the prospective Contractor during the two (2) year period. Failure to list a client qualifying under this criterion may result in rejection of the prospective Provider's list. The list shall include the name and telephone number of a contact person with each company or entity. The Agency will use these references to evaluate the quality of the prospective Contractor's past experience and ability to perform.

### **8.2 Company Background and Previous Similar Experience:**

Offeror must include a general description about their company, including the nature of the business, years in operation, number of employees, type of services offered, and any previous experience in similar programs. The offeror must also include the resumes of their key personnel with which the agency will be working. The Agency will use this information to evaluate the capability and resources available to provide the required service.

### **8.3 Insurance:**

Contractor must maintain workers' compensation insurance, which shall inure to the benefit of all Work Experience Program participants provided hereunder, comprehensive general liability or professional liability insurance, with minimum limits of \$1,000,000.00 per occurrence and employee dishonesty bond insurance with minimum limits of \$100,000.00. All general liability, professional liability and employee dishonesty bond insurance will provide coverage to the State of Mississippi as an "insured". Prior to the start of the contract period, Contractor must provide the MDES with certificates from its insurer(s) certifying that it has appropriate and comprehensive insurance covering any incident arising from its operation. The MDES reserves the right to request from carriers, certificates of insurance regarding the required coverage.

## 9.0 LIST OF ATTACHMENTS AND FORMS

The following are included as attachments to this request. **Attachments A & B contain all of the forms that must be completed and submitted as part of the proposal.**

Attachment A – Vendor Statement of Compliance (to be signed by responsible individual on behalf of offeror)

Attachment B – References/Background and Previous Similar Experience/Cost Sheet

Enclosure C - Contains a sample of the contract to be awarded as a result of this solicitation.

## 10.0 INSTRUCTIONS, CONDITIONS, AND NOTICES FOR PROPOSAL

### 1. Issuing Office

This RFP is issued for the State of Mississippi by the MDES. The MDES reserves the right, without qualifications, to select any proposal as a basis for negotiation, to reject all proposals not meeting minimum requirements and to exercise its discretion and apply its judgment with respect to any proposal submitted. The MDES also reserves the right to make a contract award based on the submitted proposals without conducting discussions.

### 2. Schedule of Activities and Submission

RFP Issue Date		January 31, 2007
Questions due to MDES		February 13, 2007
MDES Written Responses		February 15, 2007
Proposal Opening	2 P.M. CST	February 21, 2007
Vendor Selected		March 22, 2007
Contract Effective Date		April 13, 2007

Proposals must be submitted with one original and two (2) copies of the entire proposal. **All proposals must be received by the MDES no later than 2:00 p.m. CST, February 21, 2007.** It is suggested that if a proposal is mailed to the MDES, it should be posted in certified mail with a return receipt guaranteed. The MDES will not be responsible for mail delays or lost mail.

Proposals should be mailed to and labeled as follows:

Proposal for Third-Party Employer Youth Work Experience  
Mississippi Department of Employment Security  
Chief, Procurement & Other Services

Third Party Employer Youth Work Experience Services  
MDES  
RFP 07-06  
January 31, 2007

P.O. Box 1699  
Jackson, Mississippi 39215-1699

**SEALED PROPOSAL – DO NOT OPEN**

Or delivered and labeled as follows:

Proposal for Third-Party Employer Youth Work Experience  
Mississippi Department of Employment Security  
Chief, Procurement & Other Services  
1235 Echelon Parkway  
Jackson, Mississippi 39213

**SEALED PROPOSAL – DO NOT OPEN**

**Submission Deadline: 2:00 p.m., CST February 21, 2007**

- a. Proposals shall be submitted in sealed envelopes or packages addressed to the Department specified above.
- b. One (1) original and two (2) copies shall be submitted.
- c. Receipt or acceptance of a proposal does not imply commitment or obligation on the part of the State of Mississippi to fund any proposal submitted.
- d. The parties submitting proposals are responsible for ensuring that they are delivered by the required time and assume all risks of delivery. **Proposals and modifications or corrections thereof received after the closing time specified will not be considered.** Any proposal received subsequent to the specified date and time will be returned to the prospective contractor unopened. The proposal must be signed by a company official with authorization to bind the contractor to its provisions.
- e. Proposals submitted by wire, e-mail, electronic format, or phone will not be accepted. Proposals are to be submitted in writing with appropriate certification signatures as indicated.
- f. **All proposal material submitted in writing shall become the property of the MDES.**
- g. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A Register of Proposals shall be prepared and shall be open for public inspection after contract award. The Register of Proposals shall indicate the name of all vendors submitting proposals.
- h. The proposal shall be valid for at least 60 days subsequent to the proposal opening.

### **3. Scope of Services**

It shall be incumbent upon all offerors to understand the provisions of the scope of services and to obtain clarification prior to the date set for the receipt of proposals. Offerors are responsible for following up to see that any correspondence or communications are properly received.

### **4. Response to Inquiries**

All questions regarding this RFP must be submitted in writing to the above address by February 13, 2007. Inquiries may also be submitted via email to [ctouchstone@mdes.ms.gov](mailto:ctouchstone@mdes.ms.gov) or by fax at (601) 321-6060 and must be received by MDES by the date indicated above. Questions submitted after this date will not be considered. Vendors shall provide an email address or fax number for MDES to direct the consolidated "question and answer" document. MDES answers will be provided in writing and transmitted via email or fax to all prospective vendors who are known to have received a copy of the original RFP. The RFP and the consolidated "question and answer" document will be posted on the MDES website ([www.mdes.ms.gov](http://www.mdes.ms.gov) then click on *RFPs and Bid Notices*.) Only answers transmitted in this manner will be considered official and valid by the MDES. No negotiations, decisions, or actions shall be initiated by any vendor as a result of any verbal discussion with any State or Agency employee or Contractor.

### **5. Proprietary Information/ Mississippi Public Records Act**

Proposals will be made available for inspection only after award of contract. For this reason, proprietary material should be clearly labeled as such. The classification of an entire proposal as proprietary or trade secret is not acceptable and may result in rejection of the proposal. Requests to review proprietary information will be handled in accordance with state law and applicable procedures. All disclosures of proposal information to interested parties will be made in compliance with MDES policies and procedures established in accordance with the Mississippi Public Records Act of 1983 defined in Section 25-61-1 et seq., of the Mississippi Code and exceptions found in Sections 25-61-9 and 79-23-1.

### **6. Acceptance of Proposals**

The MDES reserves the right, in its sole discretion, to waive minor irregularities in proposals. A minor irregularity is one that does not affect the cost stated in the proposal, give one party an advantage or benefit not enjoyed by all parties or adversely impact the interest of the MDES. Waivers, when granted, shall in no way modify the RFP requirements or excuse a party from full compliance with the RFP specifications and other contract requirements if the party is awarded the contract.

### **7. Rejection of Proposals**

Any proposal may be rejected in whole or in part when it is determined to be in the best interest of the State, as provided by the Personal Service Contract Review Board regulations. Reasons for rejecting a proposal include, but are not limited to:

- a. The proposal contains unauthorized amendments to the requirements of the RFP.
- b. The proposal is conditional.
- c. The proposal is incomplete or contains irregularities, which make the proposal indefinite or ambiguous.
- d. The proposal is not signed by an authorized representative of the party.
- e. The proposal contains false or misleading statements or references.
- f. The offeror is determined to be non-responsible.
- g. The proposal ultimately fails to meet the announced requirements of the State in some material aspect.
- h. The proposal price is clearly unreasonable.
- i. The proposal is not responsive, i.e., does not conform in all material aspects to the RFP.
- j. The supply or service item offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternative or other acceptability criteria set forth in the RFP.

## **8. Disposition of Proposals**

All submitted proposals become the property of the State of Mississippi.

## **9. Conditions of Solicitation**

The release of this RFP does not constitute an acceptance of any offer, nor does such release in any way obligate the MDES to execute a contract with any party. The MDES reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with the MDES.

Before preparing the proposal, all parties should note:

- a. The MDES will not be liable for any costs associated with the preparation of proposals.
- b. The award of a contract for any proposal is contingent upon the following:
  - 1) favorable evaluation of the proposal
  - 2) approval of the Personal Service Contract Review Board
- c. Contracted parties will be required to assume full responsibility for all specified services and may subcontract only as specified in the RFP.

## **10. Withdrawal of Proposals**

Proposals may be withdrawn by written notice received at any time before award.

## **11. Proposal Modifications**

Any requests to modify proposals must be submitted in writing by the Primary offeror. All requests for modification must be submitted prior to the application submission deadline.



## **12. Amendments to Proposal Specifications**

The MDES reserves the right to issue amendments to these guidelines. If it becomes necessary to amend said guidelines, the MDES will provide copies of the amendments to all persons that requested a copy of the RFP.

## **13. Acknowledgement of Amendments**

Offerors shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the proposal, by identifying the amendment number and date in the space provided for this purpose on the proposal form, or by letter. The acknowledgement must be received by the MDES by the time and at the place specified for receipt of proposals.

## **14. Information Regarding References and Financial Status**

It is understood and agreed that the MDES reserves the right to request information relative to references and financial status and to visit Offerors facilities during normal business hours. The MDES also reserves the right to request a current financial statement prepared and certified by an independent auditing firm.

## **15. Availability of Funds**

If any contract ensues from this RFP and subsequent procurement process, it is understood and agreed between the contracting parties that the Agency shall be bound only to the extent of the funds available or which may become available for the purpose to this solicitation.

## **16. Award**

The award, if made, will be by the Agency within sixty (60) days after opening the proposals. After the award is made by the Agency, a contract will be forwarded to your company for approval and execution. Actions taken by a proposer prior to the final approval of the contract will be at the Proposers "OWN RISK" and the MDES will not be held liable for such action. In the event the successful Offeror fails to accept and sign the mutually negotiated contract, that Offeror shall be disqualified and the MDES shall initiate negotiations with the next highest ranked Offeror or cancel the procurement.

## **17. Equal Opportunity**

Contracts, grants, loans, purchases and all other financial transactions are administered by the MDES equally to all without regard to race, color, creed, sex, religion, national origin, disability, or age. In addition, the Offeror understands that the MDES is an equal opportunity employer and maintains a policy that prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other unlawful consideration. During the term of the contract, the contractor must strictly adhere to this policy in its employment practices and provision of services.

## **18. Applicable Laws**

The Offeror is responsible for complying with all applicable federal, state, and local laws and regulations.

## **19. Licensing**

Any Offeror responding to the RFP must be licensed to do business in the State of Mississippi.

## **20. Governing Law**

This solicitation and any resulting contract shall be governed in all respects by the laws of the State of Mississippi and any litigation with respect thereto shall be brought in the courts of Jackson, Hinds County, Mississippi.

## **21. Prospective Contractor's Representation Regarding Contingent Fees**

The prospective contractor represents as a part of such contractor's proposal that such contractor has not retained any person or agency on a percentage, commission or other contingent arrangement to secure this contract.

## **22. Representation Regarding Gratuities**

The offeror represents that it has not violated, is not violating, and that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

## **23. Certification of Independent Price Determination**

The offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without (for the purpose of restricting competition) any consultation, communication or agreement with any other offeror or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate the costs.

## **24. Procurement Regulations**

Any resulting contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, MS, for inspection.

## **25. Proposal Evaluation Process**

The award will be made to the best proposal. The criteria and the level of importance associated with each criterion are listed. The criteria for selecting the best proposal are the following:

Third Party Employer Youth Work Experience Services  
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1. Vendor's capability and resources available to support and provide the required service as exhibited by references from other companies serviced within past two (2) years. **(Critical) See Section 8.1 for instructions.**
2. Vendor's experience as evidenced by completion of the vendor background and any previous similar experience and submission of resumes of the key personnel. **(Very important) See Section 8.2 for instructions.**
3. Percentage markup over hourly rate. **(Important)**

The score will be indicative of the degree of compliance of the proposal in meeting each component of the responsibilities and requirements in this RFP. Vendors must, upon request of the Agency, furnish satisfactory evidence of their ability to provide services in accordance with the terms and conditions of these requirements. The MDES may obtain information about the vendors' ability to meet requirements through reference checks or any other means available. The Agency reserves the right to make the final determination as to the vendors' ability to meet requirements.

NOTE: The Agency will restrict the availability of the proposals during the evaluation process so as to improve the efficiency of the evaluation and award process. After award is made, all information and documents applicable to the awarded contract will be available to any business or person during normal working hours.

## **26. Contract Documents**

Prospective contractors are advised that this RFP and their proposal, should it be accepted, will become part of the final contract. Precedence of contractual documents will be Contract, RFP, and Proposal (as accepted).

## **ATTACHMENT A: VENDOR STATEMENT OF COMPLIANCE**

### **Prospective Contractor's Representation Regarding Contingent Fees**

The prospective Contractor represents as a part of such Contractor's proposal that such Contractor has not retained any person or agency on a percentage, commission, brokerage, or other contingent arrangement to secure this contract.

### **Debarment**

The prospective Contractor certifies as a part of such Contractor's proposal that such Contractor is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contract issued by any political subdivision or agency of the State.

By submission of this proposal, I have agreed to adhere to **all conditions and requirements**, as set forth in the MDES Request for Proposal, including all the contract conditions contained in the draft contract enclosed. I further understand that my failure to comply with all requirements and qualifications will result in disqualification of my proposal relative to this procurement action. I have submitted appropriate documentation and completed proposal form(s) as necessary to substantiate this evaluation. If inadequate, my proposal will not meet the proposal requirements and will be evaluated as "Not Meeting Specifications."

To concur, sign below:

OFFEROR: \_\_\_\_\_ Date: \_\_\_\_\_

**ATTACHMENT B**  
Mississippi Department of Employment Security  
1235 Echelon Parkway  
P. O. Box 1699  
Jackson, Mississippi 39215-1699

11.0 Request for Proposal – Reference /Background/Cost Sheet(s)

Third-Party Employer Youth Work Experience Services

**RFP 07-06**

Offeror \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**1.0 References:**

**Please list the five (5) required references indicating company name, contact person and telephone number. See Section 8.1 for instructions.**

- |    |              |                |        |
|----|--------------|----------------|--------|
| 1) | _____        | _____          | _____  |
|    | Company Name | Contact Person | Tel. # |
| 2) | _____        | _____          | _____  |
|    | Company Name | Contact Person | Tel. # |
| 3) | _____        | _____          | _____  |
|    | Company Name | Contact Person | Tel. # |
| 4) | _____        | _____          | _____  |
|    | Company Name | Contact Person | Tel. # |
| 5) | _____        | _____          | _____  |
|    | Company Name | Contact Person | Tel. # |

**2.0 Company Background:** Give a general description of the company, including the nature of the business, years in operation, number of employees, type of services offered, and any previous experience with similar programs. Be sure to include the resumes of key personnel in your company with which MDES will be working.

**3.0 Percentage markup over hourly rate as set by the MDES \_\_\_\_\_ %.**

Please accept this as my/our formal proposal for Services as specified by the Mississippi Department of Employment Security.

Authorized Signature: \_\_\_\_\_  
(Must be signed by an individual with the authority to enter into a contract)

Title: \_\_\_\_\_

Telephone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Email Address: \_\_\_\_\_

*NOTE:* All information requested on this proposal form must be completed. Incomplete or unsigned forms will be rejected.

SAMPLE OF SERVICES AGREEMENT  
BETWEEN  
MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY  
AND  
\_\_\_\_\_

**This Agreement is entered into by the Mississippi Department of Employment Security, (hereinafter also referred to as “MDES, Agency or State”), and \_\_\_\_\_, (hereinafter also referred to as “Contractor.”)**

Whereas, MDES has a need to implement the Southcentral Mississippi Workforce Investment Area Work Experience Program and is need of a third-party employer for the participants of said program and \_\_\_\_\_ agrees to render such services and to provide the necessary expertise.

Now therefore, in consideration of the mutual understanding, promises and agreements set forth, the parties hereto agree as follows:

**1. PURPOSE**

The purpose of the Southcentral Mississippi Works Workforce Investment Area’s Work Experience Program is to give eligible young people aged 18 to 21 the chance to work and gain useful skills. The program is funded through the Workforce Investment Act under the direction of the Southcentral Mississippi Works Local Workforce Investment Area. The goals of the Work Experience Program are to:

1. Provide eligible youth with employability skills training, which include learning good work habits, skills, and attitudes sought by employers to enhance the participants’ future employability.
2. Provide eligible youth with a job which will:
  - a. Introduce them to the world of work;
  - b. Introduce them to sources of information on career opportunities;
  - c. Provide them with adequate supervision on the job; and
  - d. Provide them with income in return for their work.
3. Provide employers in local communities with needed services that can be performed by youth who participate in the Work Experience Program.

Contractor will serve as an intricate part of this program by acting as the participants’ employer after MDES determines they meet program eligibility requirements.

## **2. DURATION**

The term of the contract shall be April 13, 2007 through April 12, 2011 with an option to renew for one (1) additional twelve (12) month period or as long as this program with the SMWWIA is continued, whichever is shorter. Any contract extension shall be under the same prices, terms, and conditions as in the original contract, and shall be agreed to, in writing, by the State and the Independent Contractor. The period of performance under the initial contract term and under any extension shall be conditioned upon the receipt of funds and satisfactory performance during prior years as determined by the MDES.

## **3. MDES DUTIES**

The specific responsibilities of MDES are as follows:

- 1) Recruit, certify and enroll eligible youth in the appropriate WIA youth activity in accordance with Southcentral Mississippi Works eligibility policy. MDES will retain total control over eligibility determination.
- 2) Promptly notify and provide Contractor with the proper documentation in order to add the eligible youth to its payroll.
- 3) Provide timely payment for services in accordance with Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment by the Agency with forty-five (45) days of receipt of invoice.

## **4. CONTRACTOR DUTIES**

The specific responsibilities of Contractor are as follows:

- 1) Evaluate potential employer worksites for eligibility and entering into the worksite agreement. The employer worksite supervisor will be responsible for assigning the daily job activities of the eligible youth.
- 2) Evaluate and match the eligible youth with the appropriate employer worksite. Contractor will explain to each participant the procedure for submitting timesheets to Contractor to ensure timely payment.
- 3) Pay the eligible youth at the current federal minimum wage rate which is currently \$5.15 per hour. Youth will work less than twenty (20) hours per week and no more than forty (40) hours per week up to a program maximum of 350 hours per participant. Contractor will withhold the appropriate FICA and Medicare taxes from the participants' pay and issue a W-2 to program participants in accordance with applicable law.



- 4) Provide Worker's Compensation Insurance to all program participants. (See "Insurance" below.)
- 5) Provide weekly itemized invoices to MDES.

## **5. INSURANCE**

Contractor represents that it will maintain workers' compensation insurance, which shall inure to the benefit of all Work Experience Program participants provided hereunder, comprehensive general liability or professional liability insurance, with minimum limits of \$1,000,000.00 per occurrence and employee dishonesty bond insurance with minimum limits of \$100,000.00. All general liability, professional liability and employee dishonesty bond insurance will provide coverage to the State of Mississippi as an "insured". Contractor must provide the MDES with certificates from its insurer(s) certifying that it has appropriate and comprehensive insurance covering any incident arising from its operation. The MDES reserves the right to request from carriers, certificates of insurance regarding the required coverage.

## **6. COMPENSATION**

As consideration for the performance of this Agreement, the MDES agrees to pay Contractor a markup over the hourly rate set by the MDES as follows:

**Contractor markup \_\_\_\_\_ %**

The total amount of this contract shall not exceed Three Hundred Eighty-Two Thousand Six Hundred and Six Dollars (\$382,606).

## **7. STANDARD TERMS AND CONDITIONS**

### **(1) Applicable Law**

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law provisions, and any litigation with respect thereto shall be brought in the courts of the State. The Contractor shall comply with applicable federal, state and local laws and regulations.

### **(2) Approval**

It is understood that the Contract is void and no payment shall be made in the event that the Personal Service Contract Review Board does not approve this contract.

(3) **Assignment**

The Independent Contractor may not assign or otherwise transfer its obligations or duties under this contract without the prior written consent of MDES. Any attempt to assign or transfer the obligations and duties hereunder without such consent shall be void.

(4) **Authority to Contract**

Independent Contractor warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any-kind, and (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary, or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

(5) **Availability of Funds**

It is expressly understood and agreed that the obligation of the State to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, either through the failure of the federal government to provide funds, or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the State, the State shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the State of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

(6) **Change in Scope of Work**

The MDES may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the MDES and Contractor.

If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, it must immediately notify the MDES in writing of this belief. If the

MDES believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work with the scope.

(7) **Compliance with Laws**

The Independent Contractor understands that the State is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State or local laws. All such discrimination is unlawful and Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now exists and as may be amended or modified.

(8) **Confidential Information**

“Confidential Information” shall mean (a) those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential, and (b) all data and information which Contractor acquires as a result of its contact with and efforts on behalf of the MDES and any other information designated in writing as confidential by the State. Each party to this agreement agrees to protect all confidential information provided by one party to the other; to treat all such confidential information as confidential to the extent that confidential treatment is allowed under State and/or federal law, and, except as otherwise required by law, not to publish or disclose such information to any third party without the other party’s written permission, and to do so by using those methods and procedures normally used to protect the party’s own confidential information. Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its Subcontractor shall rest with Independent Contractor. Disclosure of any confidential information by Contractor or its Subcontractor without the express written approval of MDES shall result in the immediate termination of this agreement.

(9) **Disclosure of Confidential Information**

In the event that either party of this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by State law. This Section shall survive the termination or completion of this agreement. The parties agree that this Section is subject to and superseded by Mississippi Code Ann. Section 25-61-1, et seq., Regarding Public Access to Public Records.

**(10) Disputes**

Any dispute concerning a question of fact arising under this contract shall be disposed of by good faith negotiation between a duly authorized representative of MDES and Contractor. Such a resolution shall be reduced to writing and a copy thereof mailed or furnished to Contractor and shall be final and conclusive, unless within the (10) days from the date of such resolution, Contractor mails or furnishes to the Executive Director of MDES a written request for review. Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his/her/its position on the issue in dispute and under review. The decision of the Executive Director on the review shall be final and conclusive unless determined by a court of competent jurisdiction in Hinds County, State of Mississippi, to have been fraudulent, capricious, or so grossly erroneous as necessarily to imply bad faith, or not to be supported by substantial evidence. Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of duties and obligations of the contract.

**(11) Indemnification**

To the fullest extent allowed by law, Independent Contractor agrees to indemnify, defend, save and hold harmless, protect, and exonerate the State and MDES from and against all claims, demands, liabilities, suits, damages, losses and costs of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Independent Contractor, its agents or employees in the performance of or failure to perform the services included in this contract.

**(12) Modifications or Amendments**

Modifications, changes or amendments to this contract may be made upon mutual agreement of the parties, in writing and signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or State revisions of any applicable laws or regulations make significant changes in this agreement necessary. All modifications or amendments to this contract must be approved by the Personal Service Contract Review Board.

**(13) Notices**

All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For the MDES:

Ms. Tommye Dale Favre, Executive Director  
Mississippi Department of Employment Security  
Post Office Box 1699  
Jackson, Mississippi 39215-1699

**(14) Oral Statements**

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing, signed by the MDES.

**(15) Procurement Regulations**

The contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, MS, for inspection.

**(16) Record Retention and Access to Records**

Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representative, shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the Project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this Agreement shall be retained by Contractor for three (3) years after final payment is made under this Agreement and all pending matters are closed. However, if any audit, litigation or other action arising out of or related in any way to this Project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

**(17) Independent Contractor**

Contractor shall perform all services as an independent contractor and shall at no time act as an agent for the State. No act performed or representation made, whether oral or written, by the Contractor with respect to third parties shall be

binding to MDES. It is expressly understood and agreed that MDES enters into this contract with Independent Contractor based on the purchase of professional services and not based on an employer-employee relationship. For all purposes under this contract:

- (a) Independent Contractor represents that it has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this contract. Such personnel shall not be deemed in any way, directly or indirectly, expressly, or by implication, to be employees of MDES.
- (b) Any person employed by Independent Contractor to perform the services hereunder shall be the employee of Independent Contractor, who shall have the sole right to hire and discharge its employee. MDES may, however, direct Independent Contractor to replace any of its employees under this contract.
- (c) It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Independent Contractor shall be paid as a gross sum with no withholdings or deductions being made by MDES for any purpose from said contract sum.
- (d) Independent Contractor shall pay, when due, all salaries and wages of its employees, and it accepts exclusive responsibility for the payment of all taxes and any other withholdings that may be required.

**(18) Representation Regarding Contingent Fees**

The Independent Contractor represents that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's proposal or proposal.

**(19) Representation Regarding Gratuities**

The vendor represents that it has not violated, is not violating and promises that it will not violate the prohibition against gratuities set forth in Section 7-204(Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

**(20) Requirements Contract**

During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the MDES shall have no obligation to Contractor if no services

are required. Any quantities that are included in the scope of work reflect the current expectations of the MDES for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the MDES is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate. Contractor further understands and agrees that the MDES may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

(21) **Severability**

If any term or provision of this contract is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this contract shall not be affected thereby and each term and provision of this contract shall be valid and enforceable to the fullest extent permitted by law.

(22) **State Property**

Contractor will be responsible for the proper custody and care of any State-owned property furnished for Independent Contractor's use in connection with the performance of this agreement. Independent Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

(23) **Stop Work Order**

a) **Order to Stop Work** The State may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of cost allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed the MDES shall either:

- (1) cancel the stop work order; or
- (2) terminate the work covered by such order as provided in the 'Termination for Cause Clause' or the 'Termination for Convenience Clause' of this contract.

- b) **Cancellation or Expiration of the Order** If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Independent Contractor price, or both, and the contract shall be modified in writing accordingly, if:
- (1) the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and
  - (2) the Independent contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the State decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- c) **Termination of Stopped Work** If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- d) **Adjustment of Price Clause** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Modification or Amendments section of this contract.

(24) **Termination for Convenience**

Either MDES or Independent Contractor may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Independent Contractor shall be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Independent Contractor covered by the contract, less payments of compensation previously made.

(25) **Termination for Cause**

If, through any cause, Independent Contractor shall fail to fulfill in a timely and proper manner, as determined by MDES, its obligations under this contract, or if Independent Contractor shall violate any of the covenants, agreements, or stipulations of this contract, MDES shall thereupon have the right to terminate the contract by giving written notice to Independent Contractor of such termination and specifying the effective date thereof, at least ten (10) working days before the effective date of such termination. In the event of such termination, Independent Contractor shall be entitled to receive just and equitable compensation for satisfactory work completed as of the date of receipt of Notification of



Termination. Such compensation shall be based upon the fees set forth in the response to the Request for Proposal.

Notwithstanding the above, Independent Contractor shall not be relieved of liability to MDES for damages sustained by MDES by virtue of any breach of this contract by Independent Contractor and MDES may withhold any payments to Independent Contractor for the purpose of set off until such times as the exact amount of damages due to MDES from Independent Contractor are determined.

**(26) Third Party Action Modification**

Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Independent Contractor by any entity that may result in litigation related in any way to this agreement.

**(27) Waiver**

No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power of remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

For the faithful performance of the terms of this contract, the parties hereto have caused this contract to be executed by their undersigned authorized representation.

**In witness whereof**, this contract has been entered into and executed by the parties hereto in duplicate originals.

**MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY**

By: \_\_\_\_\_  
Ms. Tommye Dale Favre  
Executive Director

Witness:\_\_\_\_\_

Witness:\_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACTOR**

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness:\_\_\_\_\_

Witness:\_\_\_\_\_

Date: \_\_\_\_\_